



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,647	06/07/2000	Joe McCollum	C1151-7000	8728
37462 7590 03/21/2008 LOWRIE, LANDO & ANASTASI, LLP ONE MAIN STREET, SUITE 1100 CAMBRIDGE, MA 02142				
EXAMINER				
PASS, NATALIE				
ART UNIT		PAPER NUMBER		
3626				
NOTIFICATION DATE		DELIVERY MODE		
03/21/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ll-a.com
engelsson@ll-a.com

Office Action Summary

Application No.

09/589,647

Applicant(s)

MCCOLLUM ET AL.

Examiner

Natalie A. Pass

Art Unit

3626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008 and 20 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Decision Granting Petition mailed 10 January 2008 and the amendment filed 20 June 2007. Claims 1-2 and 16 have been amended. Grounds of rejection for claims 1-26 are set forth in detail below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-12, 14-18, 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton, United States Patent 7, 028, 049, for substantially the same reasons as in the previous Office Action (paper number 20060630), and further in view of Schoenberg, United States Patent Number 6, 463, 417. Further reasons appear hereinbelow.

(A) Claim 1 has been amended to recite:

- “for identifying the order requested from the online location,” in line 6; and
- “in response to the requestor sending the cover letter and the patent authorization letter,” in line 11.

As per amended claim 1, Shelton teaches a method of obtaining a patient record as analyzed and discussed in the previous Office Action (paper number 20060630), comprising:

providing to the requestor a cover letter having “a tracking number” (reads on “an identifier”) (Shelton; column 12, lines 50-55) for identifying the order requested from the online location (Shelton; column 10, lines 28-40, column 10, line 52 to column 11, line 3, column 13, lines 10-26).

Although Shelton teaches sending, by the requestor, the cover letter along with the patient authorization letter to a “Approvals Agent” (reads on “processing center”), for completing the order (Shelton; column 11, lines 10-30); and Shelton teaches requesting, by the “Approvals Agent” (reads on “processing center”), to a “data administrator” (reads on “shipping location”) to “retrieve and transmit” (reads on “ship”) the patient record concerning the identified patient to a destination location) (Shelton; column 12, lines 4-9), Shelton fails to explicitly disclose the requesting step being performed in response to the requestor sending the cover letter and the patent authorization letter.

However, the above features are well known in the art, as evidenced by Schoenberg.

In particular, Schoenberg teaches a method wherein the requesting step is performed in response to the requestor sending the cover letter and the patent authorization letter (Schoenberg; column 2, lines 44-46, column 3, lines 9-17, column 5, lines 25-28, column 8, line 52 to column 9, line 27); Examiner interprets Schoenberg’s teachings of distribution of health information based on “release authorization [reads on “cover letter”] established by the individual [patient]” (Schoenberg; column 2, lines 44-46) together with “the patient can define which of the security access codes are necessary to be input by the requestor to identify the requestor as being

authorized to access the patient's medical record" (Schoenberg; column 5, lines 25-28) and "the medical information in each category will be released only if the assigned access security codes are received. The method further includes the steps of receiving, from a requester, one or more of the access security codes over the communications network, determining whether the received access security codes match one or more of the assigned access security codes and transmitting, to the requestor over the communications network, the medical information" (Schoenberg; column 3, lines 9-17) and "security access codes as identification constraints which must be received in step F before access to said medical information is granted" (Schoenberg; column 9, lines 24-27) to teach a form of "in response to the requestor sending the cover letter and the patent authorization letter, requesting by the processing center ... [...] ... to ship the patient record."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Shelton to include these limitations, as taught by Schoenberg, with the motivations of providing an online system for distributing medical information that is capable of securely distributing only the information from a patient's medical record that is necessary for the situation that has required access to the record and in which quick access to a patient's medical record is possible (Schoenberg; column 2, lines 10-21).

The remainder of claim 1 is rejected for the same reasons given in the prior Office Action (paper number 20060630, section 3, pages 2-3), and incorporated herein.

(B) Amended claim 2 differs from amended method claim 1, in that it is a system rather than a method for obtaining a patient record containing information concerning an identified patient using an online location.

Amended system claim 2 repeats the subject matter of amended method claim 1, respectively, as a set of “means-plus-function” elements rather than a series of steps. As the underlying processes of claim 1 have been shown to be fully disclosed by the teachings of Shelton and Schoenberg in the above rejection of claim 1, it is readily apparent that the system disclosed by Shelton and Schoenberg includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 1, and incorporated herein.

(C) The amendments to claim 16 appear to have been made merely to correct minor typographical or grammatical errors. While these changes render the language of the claim smoother and more consistent, they otherwise affect neither the scope and breadth of the claim as originally presented nor the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action.

As such, the recited claimed features are rejected for the same reasons given in the prior Office Action (paper number 20060630, section 3, pages 5), and incorporated herein.

The motivations to combine the respective teachings of Shelton and Schoenberg are as discussed in claim 1 above, and incorporated herein.

(D) Claims 3-6, 8-12, 14-15, 17-18, 20-26 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 20060630, section 3, pages 3-5), and incorporated herein.

4. Claims 7, 13, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton, United States Patent 7, 028, 049 and Schoenberg, United States Patent Number 6, 463, 417, as applied to claims 1, 2, and 16 above, and further in view of Hacker, United States Patent 6, 988, 075, for substantially the same reasons as in the previous Office Action (paper number 20060630). Further reasons appear hereinbelow.

(A) Claims 7, 13, 19 have not been amended and are rejected for the same reasons given in the previous Office Action (paper number 20060630, section 5, pages 6-7), and incorporated herein.

Response to Arguments

5. Applicant's arguments filed 20 June 2007 with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3626

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. **Any response to this final action should be mailed to:**

Box AF

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to: (571) 273-8300.

For formal communications, please mark

"EXPEDITED PROCEDURE".

For informal or draft communications, please label

"PROPOSED" or "DRAFT" on the front page of the communication and do NOT sign the communication.

After Final communications should be labeled "Box AF."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Natalie A. Pass/
Examiner, Art Unit 3626
March 10, 2008

/Robert Morgan/
Primary Examiner, Art Unit 3626